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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

No. 452

CATHERINE J. HEALY, ET AL,

Petitioners,

v.

F. DON JAMES, ET AL,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

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LEWIS PRESS, PRINTERS, HARTFORD

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REASONS FOR DENYING THE WRIT

The record does not adequately raise a constitutional issue.

Neither Defendant James nor any of the other named defendants has ever interfered with or proscribed the plaintiffs' exercise of their constitutional rights, on or off campus, to speak, to assemble, to petition or to demonstrate. (Petitioners' Appendix, p. 3a).

We respectfully submit that Judge Smith in his dissent has obviously confused the issue in the case. The only issue before the Court of Appeals was whether the defendant James properly acted within his broad discretion and comprehensive authority in refusing to grant official recognition

to the local chapter of Students for a Democratic Society. The majority of the court properly found that he did.

Judge Clarie's comprehensive opinion of April 24, 1970 focused on the ambiguity apparent in the application for recognition of the local chapter of Students for a Demoratic Society and ordered the college administrators to conduct an administrative hearing to clarify the ambiguity.

The petitioners, all college students whose maturity has been recognized by virtue of the Twenty-sixth Amendment to the Constitution of the United States, were represented by legal counsel at the administrative hearing, as well as throughout the court proceedings. In spite of their maturity and legal representation, the petitioners opted to refuse to comply with the suggestions of Judge Clarie "in at least the following respects:

(1) They failed to submit a copy of their charter or by-laws.

(2) They failed candidly to clarify the apparent conflict between the name of their proposed organization, 'Students for a Democratic Society of Central Connecticut State College,' and their disclaimer of being under the dictates of the national SDS organization.

(3) They failed candidly to respond to inquiries whether they would resort to violence and disruption on the CCSC campus, including interruption of classes.

(4) They failed to testify at the administrative hearing and to subject themselves to cross-examination, despite Judge Clarie's explicit direction.

(5) They failed to offer any evidence whatsoever at the administrative hearing designed to enable the college administration and Judge Clarie to resolve the issues

for which the hearing was ordered; but, on the contrary, they sanctioned conduct at the hearing just the opposite of the 'climate of respectful civility' ordered by Judge Clarie". (P.A., pp. 20a, 21a).

Accordingly, the majority of the Court of Appeals found it "neither necessary nor appropriate, upon this record, to reach the substantive constitutional questions which might have been presented if plaintiffs had availed themselves of the procedural due process to which Judge Clarie ordered they were entitled and which the college administration accorded them." (P.A., pp. 22a, 23a).

CONCLUSION

This Court should deny the Petition for Certiorari.

Respectfully submitted,

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October 20, 1971